

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:23-cv-21771-LEIBOWITZ/TORRES

SUNBELT RENTALS, INC.,

*Plaintiff/Counter-Defendant,*

*v.*

ACTION RENTAL HOLDINGS, LLC, *et al.*,

*Defendants/Counter-Plaintiffs.*

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**ORDER ADOPTING MAGISTRATE’S REPORT AND RECOMMENDATION**

THIS CASE was referred to United States Chief Magistrate Judge Edwin G. Torres for a ruling on all pre-trial, non-dispositive matters and for a Report and Recommendation on any dispositive matters. [ECF No. 50]. On May 8, 2024, Chief Magistrate Judge Torres issued a report, recommending that the Court grant in part and deny in part Plaintiff’s motion to compel arbitration of Counterclaims 1, 2, and 3, and to dismiss Counterclaims 4 and 5. [ECF No. 72 at 1]. Defendants submitted objections to Chief Magistrate Judge Torres’ report and recommendation [ECF No. 76], and Plaintiff filed a response to Defendants’ objections [ECF No. 77]. After careful review of the filings, the applicable law, and the record, the Court adopts Judge Torres’ report and recommendation [ECF No. 72] in its entirety.

“In order to challenge the findings and recommendations of the magistrate judge, a party must file written objections which shall specifically identify the portions of the proposed findings and recommendation to which objection is made and the specific basis for objection.” *Macort v. Prem, Inc.*, 208 F. App’x 781, 783 (11th Cir. 2006) (cleaned up). The objections must also present “supporting legal authority.” L. Mag. J.R. 4(b). Once a district court receives “objections meeting the specificity

requirement set out above,” it must “make a de novo determination of those portions of the report to which objection is made and may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge.” *Macort*, 208 F. App'x at 783–84 (cleaned up).


Defendants submitted objections to Chief Magistrate Judge Torres’ report and recommendation. [ECF No. 76]. Plaintiff filed a response to Defendants’ objections. [ECF No. 77]. The Court has made a de novo review of the issues that the objections to Chief Magistrate Judge Torres’ report and recommendation present. Having carefully reviewed Chief Magistrate Judge Torres’ report and recommendation, Defendants’ objections, and Plaintiff’s response to the objections, the Court finds the resolution of the issues as recommended by Chief Magistrate Judge Torres to be sound and well-reasoned. The Court therefore adopts Chief Magistrate Judge Torres’ recommendation in its entirety.

Accordingly, it is hereby **ORDERED AND ADJUDGED:**

1. Defendants’ Objections to Chief Magistrate Judge Torres’ Report and Recommendation [ECF No. 76] are **OVERRULED**.
2. Chief Magistrate Judge Torres’ Report and Recommendation [ECF No. 72] is **AFFIRMED AND ADOPTED**.
3. Plaintiff’s Motion to Compel Arbitration and Motion to Dismiss [ECF No. 40] is **GRANTED IN PART and DENIED IN PART**.
  - a. The Motion to Compel Arbitration as to Counterclaims 1 and 2 is **GRANTED IN PART and DENIED IN PART**. The arbitrable factual disputes underlying Counterclaims 1 and 2 are hereby **COMPELLED TO ARBITRATION**. Any non-arbitrable claims or disputes included in Counterclaims 1 and 2 are **STAYED** pending the arbitrator’s findings.
  - b. The Motion to Compel Arbitration as to Counterclaim 3 is **DENIED**.

- c. The Motion to Dismiss as to Counterclaim 4 is **DENIED**.
  - d. The Motion to Dismiss as to Counterclaim 5 is **GRANTED IN PART and DENIED IN PART**. Counterclaim 5 is dismissed with respect to the allegation that “rent” and “utilities” comprise part of the benefit unjustly retained by Plaintiff, but Defendants are granted leave to amend this error. Defendants shall submit Amended Counterclaims correcting this error **no later than July 12, 2024**.
4. Given this Court’s ruling, the parties are ordered to confer and advise the Court whether any changes are required to the trial and pre-trial schedule by submitting a Joint Scheduling Report **no later than July 12, 2024**. If the parties do not submit a Joint Scheduling Report, the Amended Order Setting Trial and Pre-Trial Schedule [ECF No. 70] will remain in place.

**DONE AND ORDERED** in the Southern District of Florida on June 27, 2024.

  
**DAVID S. LEIBOWITZ**  
**UNITED STATES DISTRICT JUDGE**

cc: counsel of record